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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Vannuffel et al.) Group Art Unit 1655
Appl. No. : 09/509,234) I hereby certify that this correspondence and all
Filed : September 25, 2000) marked attachments are being deposited with
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QUANTIFICATION) Patent and Trademark Office, P.O. Box 2327,
METHODS AND DEVICES) Arlington, VA 22202, on
FOR THE IDENTIFICATION)
OF STAPHYLOCOCCI)
STRAINS)
Examiner : C. Myers)

May 29, 2002

Mark R. Benedict, Reg. No. 44,531

AMENDMENT AND RESPONSE TO RESTRICTION REQUIREMENT

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Dear Sir:

In response to the Office Action mailed November 29, 2001 (Paper # 16), please amend the above-captioned patent application as follows:

IN THE CLAIMS:

Please amend the following claims:

E1 6. (TWICE AMENDED) The oligonucleotide according to Claim 5, which is selected from the group consisting of SEQ ID NOS:46, 48, 50, and 52.

7. (TWICE AMENDED) Two or more isolated or purified oligonucleotides for the specific amplification of *Staphylococci* species comprising at least one nucleotide sequence of about 15 to 45 base pairs more than 60% homologous to SEQ ID NO:1 and/or at least one

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conceded
oligonucleotide about 15 to 45 base pairs more than 60% homologous to SEQ ID NOS:1, 46, 48, 50, and 52.

8. (TWICE AMENDED) The oligonucleotides according to Claim 7 wherein said oligonucleotides have more than 70% homology to SEQ ID NOS:1, 46, 48, 50, and 52.

9. (TWICE AMENDED) The oligonucleotides according to Claim 8 wherein said oligonucleotides have more than 80% homology to SEQ ID NOS:1, 46, 48, 50, and 52.

10. (TWICE AMENDED) The oligonucleotides according to Claim 9 wherein said oligonucleotides have more than 90% homology to SEQ ID NOS:1, 46, 48, 50, and 52.

11. (TWICE AMENDED) The oligonucleotides according to Claim 7 wherein said oligonucleotides are selected from the group consisting of SEQ ID NOS:1, 18-40, 42, and 44.

REMARKS

Claims 6-11 were amended to more clearly claim the invention. No new matter is added herewith. Changes to the claims can be seen on a separate page entitled VERSION WITH MARKINGS TO SHOW CHANGES MADE following the signature page. Deletions are in [bold and brackets] and insertions are underlined.

Response to Restriction Requirement

The Examiner asserts that the claims are divided into two distinct groups, as follows:

Group I: Claims 1, 2, 5-11, 13-23, 31-33, drawn to nucleic acids; and

Group II: Claims 34-42, drawn to proteins.

Applicants elect Group I, specifically Claims 1, 2, 5-11, 13-23, 31-33, drawn to nucleic acids.

The Examiner asserts that the claims of Group I contain multiple SEQ ID Numbers, which are patentably distinct because they are unrelated sequences. The Examiner requires election of a single nucleic acid sequence selected from the group consisting of SEQ ID NOS: 1, 2-39, 40, 42, 44, 46, 48, 50, 52, 54, and 56-64. Applicants elect SEQ ID NO:1 with traverse. Applicants assert that a prior art search and examination of all the nucleic acid sequences could be made without serious burden on the Examiner. SEQ ID NO:1 is a consensus sequence, resulting from alignment of a plurality of *Staphylococcus femA* nucleotide sequences. SEQ ID NOS: 2-39, 40, 42, 44, 46, 48, 50, 52, 54, and 56-64 include *femA* nucleotide sequences of

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individual species of *Staphylococcus* and the primers used to construct these sequences. Thus, Applicants assert that no undue burden would be placed on the Examiner to examine these sequences.

Conclusion

Should any issues arise which may delay prosecution of the above-captioned patent application, Examiner is respectfully invited to contact the under-signed attorney at the telephone number appearing below. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

5/29/02

By: _____



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